

## BEST AVAILABLE COPY

JAN. 9. 2006 9:15AM

CHOATE HALL &amp; STEWART 6172484000

NO. 087 P. 1

CHOATE

CHOATE HALL &amp; STEWART LLP

RECEIVED  
CENTRAL FAX CENTER

JAN 09 2006

URGENT

## Fax

PRIVILEGED AND CONFIDENTIAL

Recipient	Company	Fax	Phone
Board of Patent Appeals	U.S. Patent and Trademark Office	571-273-0053	
Commissioner for Patents	U.S. Patent and Trademark Office	571-273-8300	

From	Brenda Herschbach Jarrell, Ph.D.	Number of Pages	3
Date	January 9, 2006	Client Number	2002834-0058
Phone	(617) 248-5175	Operator	Time Sent

Comments	Applicant:	Bannon, et al.	Examiner:	Huynh, P.
	Serial No.:	09/478,668	Art Unit:	1644
	Filed:	January 6, 2000		
	Title:	Methods and Reagents for Decreasing Clinical Reactions to Allergy		

Please find attached the following document for the above-referenced case:

Request to Cancel Oral Hearing (2 pages).

URGENT

Return by Inter-office Mail Hold for pick-up

Two International Place | Boston MA 02110 | t 617-248-5000 | f 617-248-4000 | choate.com

**URGENT****URGENT****ATTORNEY DOCKET NUMBER: 2002834-0058 (CIP4 DIV1)****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant: Bannon, et al.

Serial No.: 09/478,668

Filed: January 6, 2000

For: METHODS AND REAGENTS FOR DECREASING CLINICAL REACTIONS TO ALLERGY

Examiner: Huynh, P.

Art Unit: 1644

Mail Stop Appeal Brief - Patents

Commissioner for Patents

P.O. Box 1450

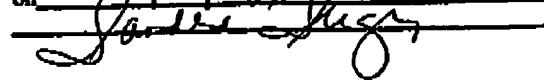
Alexandria, VA 22313-1450

**CERTIFICATE OF FACSIMILE TRANSMISSION**

PURSUANT TO 37 C.F.R. § 30.31

I hereby certify that this paper is being facsimile transmitted to the Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313

on 1-9-06



Sir:

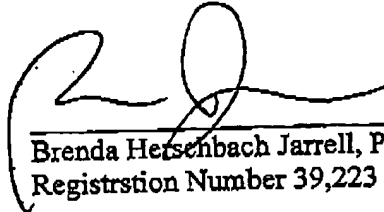
**REQUEST TO CANCEL ORAL HEARING**

An Oral Hearing is currently scheduled in the above-referenced case for tomorrow, January 10, 2005. The case includes rejections under 35 U.S.C. § 112 and rejections over art, one of the art-based rejections being based on denial of a priority claim (the cited reference represents the inventors' own work). As noted in the Appeal Brief, this case is one of a family of cases, each of which contains virtually identical rejections under 35 U.S.C. § 112. Some of the cases also contain a similar art rejection over the inventors' own work.

Two days ago (specifically, on Saturday, January 7, 2006), the undersigned received a Decision on Appeal in one of the related cases (specifically, in 09/455,294; the "Decision"). This Decision did not address the rejections under 35 U.S.C. § 112. However, it affirmed the priority claim denial, and therefore the art rejections. The Decision acknowledged, however, that an alternative, and proper ground for overcoming a prior art reference representing work of the inventors is through submission of a Declaration under 37 C.F.R. § 1.131.

Given the issuance of the Decision, Appellant has recognized that an Oral Hearing would not be productive at this time. Prosecution could more productively be advanced by filing a Continuation application to first remove the relevant prior art rejections (through the filing of a Declaration under 37 C.F.R. § 1.131), thereby reducing the issues on appeal. The undersigned apologizes for the late notice of this cancellation, necessitated by the unfortunate timing of the Decision.

Respectfully submitted,



Brenda Herschbach Jarrell, Ph.D.  
Registration Number 39,223

PATENT DEPARTMENT  
CHOATE, HALL & STEWART  
2 International Place  
Boston, MA 02110  
Telephone: (617) 248-5000  
Facsimile: (617) 248-4000